REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the present amendment and in light of the following discussion, is respectfully requested.

Claims 1-5 are currently pending in this application. Claim 2 has been amended herewith, but no other claims have been amended, canceled or added. The change to claim 2 is believed to be supported by the originally filed specification, and does not introduce any new matter.

In the outstanding Office Action, claims 1-5 were rejected under 35 USC 112, first paragraph, as failing to be supported by an enabling disclosure; claim 2 was rejected under 35 USC 112, second paragraph, as being indefinite; and claims 1-5 were further rejected under 35 USC 103 as being anticipated by U.S. Patent Nos. 5,982,753 and 6,430,607 (hereinafter "the '753 and '607 patents"). Preliminarily, it should be noted that the Office Action has taken a self-inconsistent position by arguing that the cited references rendered obvious the subject matter of the claims while arguing that the claims are not enabled. If the references were to rendered obvious the subject matter of the claims, then the claimed subject matter would be enabled because, in order for the references to be properly citable, they too must be enabling. However, given that the cited references do not teach the claimed invention, the enablement rejection has been addressed and overcome herein. However, it is respectfully requested that the next office action assert whether the references relied upon are considered to be enabling.

In response to the rejection of claims 1-5 under 35 USC 112, first paragraph, that ground for rejection is respectfully traversed as all the limitations of the claims are supported by an enabling disclosure. For example, paragraphs [0059] through [0063] describe the processes and data traffic of Figures 14-16. In the process of Paragraphs [0059] and [0060], the specification teaches how to determine if sufficient room is left for summary information,

4   BEST AVAILABLE COPY

as opposed to real-time information. In this way, the specification teaches determining "a level of detail to report said network status to said network operations console based on ... a predetermined allocation of bandwidth for use in reporting network status." Similarly, paragraph [0045] states that "the number of check boxes 420 that may be selected at any one time may be severely limited, and the operations console 16 may automatically unselect a number of other check boxes 420 each time a new check box is selected." This too shows a limitation of the bandwidth for use in reporting network status. In another example, paragraph [0054] states that "the network operations console 16A 16B transmits connection information to the flow control daemon 15 which aids in determining how much bandwidth on the connection L1 to allocate to network status messages." Furthermore, paragraphs [0055] to [0057] provide a detailed description of how bandwidth constraints can be addressed when determining a "a level of detail to report said network status to said network operations console."

Moreover, since the level of detail is selected by a user request (e.g., see paragraphs [0067] and [0055] to [0057]), the specification enables one of ordinary skill in the art to make and use the invention. For the purposes of the enablement rejection, claims 1 and 5 should be considered interchangeable. Thus, this ground for rejection with respect to claims 1 and 5 should be withdrawn. Claims 3 and 4 also are enabled for reasons analogous to the enablement of claim 1. For example, determining and providing steps and means are enabled based on the disclosures above of how to regulate the amount of information to be transmitted.

In response to the rejection of claim 2 under 35 USC 112, second paragraph, that ground for rejection is rendered moot by the amendment to claim 2. Claim 2 now recites that "said network status gathering mechanism is configured to gather network status information

5

from plural switches," thereby providing further antecedent basis for claim 2. Accordingly, this ground for rejection should be withdrawn.

In response to the rejection of claims 1-5 under 35 USC 103, that ground for rejection is respectfully traversed. As admitted in the outstanding office action, the '753 patent "does not teach that bandwidth is predetermined." It is first noted that claim 1 actually recites "a predetermined allocation of bandwidth for use in reporting network status," not "that bandwidth is predetermined." Secondly, it is noted that the office action has failed to cite to any particular portion of the '607 patent in violation of 37 CFR 1.104(c)(2) which states in pertinent part "When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable." The Office Action, having failed to do so, cannot establish a prima facie case of obviousness since there is no clarity in the record as to on what the office action relies.

Assuming that the office action intends to rely on column 45 of the '607 patent, it is respectfully submitted that the office action has not shown that a level of detail is altered based on any bandwidth determinations. Rather, it appears that the same level of detail is simply broken into more variable-length message segments 2106. Thus, the combination still fails to render obvious the subject matter of the claims.

Moreover, the office action asserts that "details of report are always limited by its allocated bandwidth," and cites higher and lower resolution images. In response, it is noted that the time to send a certain level of detail may be fixed by bandwidth constraints, but that is not the same a determining "a level of detail to report said network status to said network operations console based ... a predetermined allocation of bandwidth for use in reporting network status."
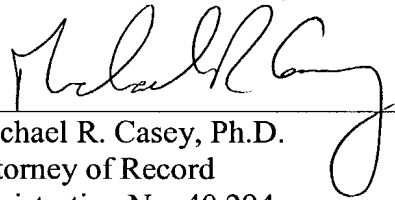
In addition, the office action has failed to establish that its alleged motivation for making its proposed combination was found in the prior art. The office action has cited a

manual determination of whether different reports should be sent in the '753 patent, but those levels were selected to "aid in the analysis and test of the switched LAN 102" without regard to bandwidth. Thus, the motivation to combine the applied references is improper, and this ground for rejection should be withdrawn.

Consequently, the pending claims are enabled, definite and patentable over the cited references. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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